



Montana Environmental Trust Group, LLC
Trustee of the Montana Environmental Custodial Trust
PO Box 1230, East Helena, Montana 59635
Telephone: (406) 227-1242

**ENVIRONMENTAL
PROTECTION AGENCY**

AUG 22 2011

MONTANA OFFICE

August 19, 2011

CERTIFIED MAIL 7009 2820 0001 4072 2268
RETURN RECEIPT REQUESTED

Betsy Burns
RCRA Project Officer
EPA Region VIII
Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626

RE: Consent Decree Civil Action No. CV 98-3-H-CCL East Helena Site
Work Performed in July 2011; Progress Report

Dear Betsy:

On May 5, 1998, ASARCO and the United States Environmental Protection Agency (EPA) entered into a Consent Decree (the Decree) to further the objectives of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). On December 9, 2009, the Montana Environmental Custodial Trust (the Custodial Trust) was established as part of the larger ASARCO bankruptcy settlement agreement to provide operational, remediation and revitalization activities at the Montana Sites, which include the East Helena Smelter. The United States and the State of Montana are the two designated beneficiaries of the Custodial Trust.

Pursuant to the Settlement Agreement, a motion to reopen the Decree and substitute the Custodial Trust for ASARCO was granted by the US Federal District Court in January 2010. As of the date of this report, EPA, DOJ and the Custodial Trust are in the process of finalizing a First Modification to the Decree that will conform to the

terms of the Settlement Agreement. The Custodial Trust submits this progress report under the Decree subject to and pending the finalization of the First Modification to the Decree. Nothing herein, or in the substitution, should be interpreted or construed to constitute an unqualified acceptance of the terms of the Decree by the Custodial Trust or a waiver or release of its right to a modification of the Decree consistent with the Settlement Agreement. The Custodial Trust reserves all rights to object to those parts of the Decree that it reasonably believes are inconsistent with the Settlement Agreement. As with this report, future progress reports prescribed by the Decree, as so amended, will be submitted to EPA by the Custodial Trust.

Section XII of the Decree (Reporting: Corrective Action) requires submittal of certified monthly progress reports to EPA to describe the actions taken to achieve compliance with the Decree. The following describes those activities that have occurred or are related to activities that took place during July 2011. As to any actions performed by ASARCO, the Custodial Trust's predecessor-in-interest, the descriptions are based on information and belief only.

SECTION 1. DESCRIPTION OF ACTIVITIES FOR JULY 2011

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Draft Phase II RFI	Hydrometrics / GSI	METG provided the draft Phase II RFI to the Beneficiaries on May 20 th for their review and comment.	No data submittal	No problems encountered	90%
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	2011 FSAP third quarter monitoring activities began the week of July 11 th . The monitoring activities include flow and stage measurements on 22 Prickly Pear Creek Sites; 11 pond and ditch locations; and water levels on 88 monitoring and residential wells.	Continuous and ongoing updates to the Site Database	No problems encountered	70% of 3 rd quarter
Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	EPA requested formal procedures be developed to review and verify all data entered into the database. On June 2 nd , Hydrometrics Contract Modification #3 was executed to revise and update the DMP and addend the QAPP.	Revised DMP and QAPP will be completed by August 12 th	No problems encountered	60%
Selenium Plume Front Investigation	Hydrometrics	Results for the residential well sampling event north of Canyon Ferry Road indicated wells at 100 feet bgs had concentrations of up to 10 ppb of Selenium. The Custodial Trust is preparing letters to individual well owners providing results of the analysis, and a fact sheet of general information about Selenium which will be sent out when all data is available (~mid-August).	In early August, EPA will receive a draft cover letter and Selenium Fact Sheet for comment	No problems encountered	95%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Corrective Measures Study (CMS)	CH2M-Hill	<ol style="list-style-type: none"> 1. CMS Work Plan Goals and Objectives were finalized July 24th. 2. Beneficiaries are reviewing GSI technical memorandum referencing existing groundwater and soil data supporting the groundwater site conceptual model. 3. Scope of work has been executed with Hydrometrics for developing conceptual site models for areas of potential concern relative to on-site soils. 4. South Plant Hydraulic Unit field aquifer testing to begin in September/October. 5. Received cost estimates for aerial mapping of the site from CH2M-Hill, Stahley Engineering and DJ&A. 	No data submittal	No problems encountered	65%
Baseline Ecological Risk Assessment (BERA)	Gradient	Gradient will issue the final BERA report after discussions with USFWS regarding the risks to birds from off-site soils.	No data submittal		90%
Human Health Risk Assessment (HHRA)	Exponent/CH2M-Hill	CH2M-Hill has presented a scope of work for a technical memorandum update of Exponent's 2009 screening level risk assessment for human health. Authorization to proceed is subject to the EPA concurrence.	No data submittal	No problems encountered	0%
Consent Decree Modification	METG/DOJ	Modification #1 to the 1998 CD has been finalized. USDOJ and the EPA expect to file the final revision in August.	No data submittal	No problems encountered	95%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Groundwater Technical Working Group (TWG) – Groundwater Model Work Plan	METG/EPA/MDEQ/MDOJ	The Groundwater Model and TWG will be delayed until the South Plant Water Balance and the Site Conceptual Models are completed later this fall.	No data submittal	No problems encountered	- %
Corrective Action Management Unit (CAMU)	METG	CAMU 2 leak detection and leachate collection system was pumped in July. Approximately, 6000 gallons were pumped from the leak detection, and 93,200 gallons from the leachate collection for a total of 99,200 gallons.	No data submittal	No problems encountered	80%
Water Treatment Plant	METG	The HDS water treatment plant operated July 17 th – 22 st and 24 th – 29 th for a total of 12 days of discharge.	DMR for June 2011 submitted to MDEQ	No problems encountered	Ongoing
Flood Control	METG	Repairs to the flood damaged diversion structure separating Upper Lake and Prickly Pear Creek were made the week of July 11 th . The Custodial Trust submitted an emergency notice (due within 15 days after completion of the action) to the Lewis & Clark County Conservancy District for work impacting the streambed channel under 310 Permit; Natural Streambank and Land Preservation Act.	No data submittal	No problems encountered	90%

Activity	Performing Entity	Description	Data Submittal	Problems Encountered	Percent Complete
Property Use/ Development	METG	<ol style="list-style-type: none"> 1. American Chemet repaired the door on the Barnum Building per terms of the lease agreement. 2. Zanetti Brothers continues CERCLA work in East Helena. 3. The Custodial Trust is amending the Agreement with H&H Metals to reflect the sale of 5,000 tons of unfumed slag to Teck this year. 4. The Custodial Trust is awaiting feedback from City of East Helena Attorney regarding terms and conditions outlined in a letter from the Custodial Trust for conveyance, easements and other parcels. 5. Foster and Dobler agricultural leases were signed and are being reviewed prior to submission to the Beneficiaries for review and approval. 6. The Custodial Trust and the Beneficiaries are reviewing proposals for Redevelopment Planning. Candidate interviews will be in August. 	No data submittal	No problems encountered	90%
Community & Local Meetings	METG	<ol style="list-style-type: none"> 1. LEAP & ICs meetings 2. East Helena City Council Meeting 3. Lewis and Clark County WQPD meeting 4. Beneficiary Meeting – July meeting cancelled. 	No data submittal	No problems encountered	-

SECTION 2. ACTIVITIES SCHEDULED FOR AUGUST 2011

Task	Performing Entity	Description
Data Management Plan (DMP) and Quality Assurance Project Plan (QAPP)	Hydrometrics	Continue to implement formal Quality Assurance procedures for review and verification of data stored in the Enviro Data database. DMP will be updated and revised and QAPP will be amended and both documents reissued in early August to incorporate these changes and current data collection activities.
Field Sampling and Analysis Plan (FSAP)	Hydrometrics	Continue third quarter field sampling events, which include surface water and water levels from select monitoring wells.
Corrective Measures Study (CMS)	CH2M-Hill/Stahley/DJ&A	CH2M-Hill will prepare a scope of work for aerial mapping of the site.
Property Use / Development	East Helena	Land use and redevelopment candidate interviews in August.
Monthly inspections of six temporary cap areas	TS Consulting	Monthly inspections of the temporary cap areas will continue in August.
CAMU Inspections	TS Consulting/METG	Routine inspections of CAMU #1 (monthly) and CAMU #2 (weekly) will continue in August 2011.
Water Treatment Plant	METG	Operate the water treatment plant as needed. Submit monthly DMR for Storm Water MPDES.
MPDES Storm Water Permit	METG	MPDES Storm Water permit renewal application and fees due to MDEQ by August 31, 2011.
Plant Maintenance Tasks	TS Consulting/METG	Various tasks to be completed include: <ul style="list-style-type: none"> • Maintenance to the stormwater conveyance system • HDS building repairs • Flood damage repairs • Routine maintenance issues
LEAP & ICs Meeting	L&C County/EPA	Monthly meeting on August 17.
Beneficiaries Meeting	EPA/MDEQ/MDOJ/METG	Monthly beneficiaries meeting August 18.

Section 3. Describe and estimate the percentage of studies completed.

No projects or studies were completed in July 2011. A complete listing of projects completed in 2011 will be reported in the January 2012 Progress Report.

Section 4. Describe actions being taken to address problems.

There were no actions required to address problems associated with the Decree.

Section 5. Identify changes in key personnel during the period.

Montana Environmental Custodial Trust re-structured the East Helena Team, effective July 1, 2011, to normalize the distribution of work, focus resources on key operational, environmental and land use issues, and better position the team to address resource requirements for anticipated increase in work load. See attachment.

Section 6. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

The Custodial Trust received funds for Environmental Actions earmarked for site clean-up in connection with the ASARCO bankruptcy settlement. The Custodial Trust deposited the funds in a segregated East Helena Clean-up account and is investing and managing the funds in accordance with the provisions of the Settlement Agreement. Issues related to the CAMU trust are stilling being resolved between the beneficiaries and ASARCO.

Please do not hesitate to contact me if you have any questions.

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

A handwritten signature in black ink, appearing to read 'Marc Weinreich', with a long, sweeping horizontal line extending to the right.

Marc Weinreich
Vice-President

cc: Denise Kirkpatrick - MDEQ
Randy Breeden - EPA 8
Chuck Figur - EPA 8

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

"I certify under penalty of law that this document and all attachments, were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Montana Environmental Trust Group, LLC,
Trustee of the Montana Environmental Custodial Trust
By: Greenfield Environmental Trust Group, Inc., Member

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Marc Weinreich
Vice-President

Montana Environmental Custodial Trust (MECT)
Effective July 1, 2011 East Helena Site Organization & Lines of Report/Responsibility/Communication

